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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT SEATTLE

6 JEFFREY CHEN,

7 Plaintiff,

8 v.

9 CITY OF MEDINA, et al.,

10 Defendants.

C11-2119 TSZ

ORDER

11 THIS MATTER comes before the Court on plaintiff's motion for recusal, docket  
12 no. 420. The standard applicable to plaintiff's motion is whether the undersigned judge's  
13 "impartiality might reasonably be questioned," 28 U.S.C. § 455(a), or whether the  
14 undersigned judge "has a personal bias or prejudice concerning a party," 28 U.S.C.  
15 § 455(b)(1). Ordinarily, judicial remarks that "are critical or disapproving of, or even  
16 hostile to, counsel, the parties, or their cases," do not provide a valid basis for seeking  
17 recusal. Liteky v. United States, 510 U.S. 540, 555 (1994); see United States v. Holland,  
18 519 F.3d 909, 913-14 (9th Cir. 2008) (Section 455 "is limited by the 'extrajudicial  
19 source' factor which generally requires as the basis for recusal something other than  
20 rulings, opinions formed or statements made by the judge during the course of trial"); see  
21 also Dossett v. First State Bank, 399 F.3d 940, 953 (8th Cir. 2005) ("the proper recourse  
22 for a dissatisfied litigant is appeal"). Recusal is required only when such remarks "reveal  
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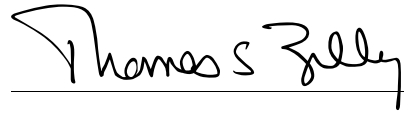
1 an opinion that derives from an extrajudicial source” or demonstrate “such a high degree  
2 of favoritism or antagonism as to make fair judgment impossible.” Liteky, 510 U.S. at  
3 555.

4 Although the Order dated August 23, 2013, docket no. 409, granting defendants’  
5 motion for a new trial, expressed disapproval of plaintiff’s counsel’s tactics, questioned  
6 plaintiff’s credibility, and indicated doubt about the merits of plaintiff’s claims, the Order  
7 was not based on “extrajudicial” information and did not exhibit the type of favoritism or  
8 antagonism that would mandate recusal of the undersigned judge. The Court has no  
9 personal bias or prejudice concerning any party, counsel, or claim in this case, and the  
10 Court is satisfied that its previous rulings in this matter would not lead a “reasonable  
11 observer” to conclude that the undersigned judge is incapable of making fair judgments.  
12 See Hook v. McDade, 89 F.3d 350, 356 (7th Cir. 1996).

13 The Court, however, has a strong belief that no party or attorney should be  
14 compelled to proceed to trial while subjectively believing that the Court is less than  
15 impartial. The general doctrine that, absent a legitimate reason to recuse, “a judge should  
16 participate in cases assigned,” Holland, 519 F.3d at 912, does not apply to a senior judge,  
17 who may participate in as few or as many cases as desired, and may choose not to preside  
18 over certain types of, or specific, actions. See 28 U.S.C. § 294(b). Exercising broad  
19 discretion under § 294(b) to discontinue involvement in this case, the undersigned judge  
20 DIRECTS the Clerk to randomly reassign this case to another Judge in this District.  
21 Plaintiff’s motion for recusal, docket no. 420, is STRICKEN as moot.  
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1 IT IS SO ORDERED.

2 Dated this 8th day of November, 2013.

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5 Thomas S. Zilly  
6 United States District Judge  
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